

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 85

Introduced by Landis, 46

Read first time January 9, 2003

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to state government; to amend sections 8-105,
2 44-119, and 81-1373, Reissue Revised Statutes of
3 Nebraska, and section 81-1316, Revised Statutes
4 Supplement, 2002; to provide for reclassification of
5 certain deputies and examiners as at-will employees; to
6 harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-105, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 8-105. (1) The director may employ such deputies,
4 examiners, and other assistants as he or she may need to discharge
5 in a proper manner the duties imposed upon him or her by law.
6 Neither the director, nor any deputy or assistant, shall employ any
7 person who at the time of hire is a relative of the director or a
8 relative of any deputy or assistant in the work of the department.
9 The deputies, examiners, and other assistants shall perform such
10 duties as shall be assigned to them. The deputies and financial
11 institution examiners hired after the effective date of this act
12 shall hold office at the will of the director and shall receive
13 such salary as set by the director and approved by the Governor
14 based upon the level of credentials for the positions. Each
15 employee who is employed as a deputy or a financial institution
16 examiner on the effective date of this act may elect to become
17 employed at will. The election to become employed at will may be
18 made at any time upon notification to the director in writing but,
19 once made, such election shall be final. Until the election to be
20 employed at will is made, the employee shall be treated as
21 continuing participation in the State Personnel System. The
22 director shall, with the approval of the Governor, fix the
23 compensation of the ~~deputies, examiners, and other~~ examiners and
24 assistants, which shall be paid either monthly or on a biweekly
25 basis.

26 (2) The deputies, examiners, and other assistants, before
27 assuming the duties of office, shall be bonded under the blanket
28 surety bond required by section 11-201.

1 Sec. 2. Section 44-119, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-119. In order to discharge the responsibilities of
4 the department, including the requirements of the Insurers
5 Examination Act, there shall be appointed a sufficient staff of
6 actuaries and examiners which shall include:

7 (1) One or more life insurance actuaries;

8 (2) One or more property and casualty insurance
9 actuaries;

10 (3) One or more actuarial examiners;

11 (4) A chief financial examiner and one or more assistant
12 chief financial examiners;

13 (5) One or more financial examiners;

14 (6) A chief market conduct examiner; and

15 (7) One or more market conduct examiners.

16 The examiners described in subdivisions (3) through (5)
17 of this section hired after the effective date of this act shall
18 hold office at the will of the director and shall receive such
19 salary as fixed by the director and approved by the Governor based
20 upon the level of credentials for the positions. Each employee who
21 is employed as an examiner on the effective date of this act may
22 elect to become employed at will. The election to become employed
23 at will may be made at any time upon notification to the director
24 in writing but, once made, such election shall be final. Until the
25 election to be employed at will is made, the employee shall be
26 treated as continuing participation in the State Personnel System.

27 Sec. 3. Section 81-1316, Revised Statutes Supplement,
28 2002, is amended to read:

1 81-1316. (1) All agencies and personnel of state
2 government shall be covered by sections 81-1301 to 81-1319 and
3 shall be considered subject to the State Personnel System, except
4 the following:

5 (a) All personnel of the office of the Governor;

6 (b) All personnel of the office of the Lieutenant
7 Governor;

8 (c) All personnel of the office of the Secretary of
9 State;

10 (d) All personnel of the office of the State Treasurer;

11 (e) All personnel of the office of the Attorney General;

12 (f) All personnel of the office of the Auditor of Public
13 Accounts;

14 (g) All personnel of the Legislature;

15 (h) All personnel of the court systems;

16 (i) All personnel of the Board of Educational Lands and
17 Funds;

18 (j) All personnel of the Public Service Commission;

19 (k) All personnel of the Nebraska Brand Committee;

20 (l) All personnel of the Commission of Industrial
21 Relations;

22 (m) All personnel of the State Department of Education;

23 (n) All personnel of the Nebraska state colleges and the
24 Board of Trustees of the Nebraska State Colleges;

25 (o) All personnel of the University of Nebraska;

26 (p) All personnel of the Coordinating Commission for
27 Postsecondary Education;

28 (q) All personnel of the Governor's Policy Research

1 Office, but not to include personnel within the State Energy
2 Office;

3 (r) All personnel of the Commission on Public Advocacy;

4 (s) All agency heads; ~~and~~

5 (t) The Director of Medical Services established under
6 section 83-125 and the chief executive officers of the Beatrice
7 State Developmental Center, Lincoln Regional Center, Norfolk
8 Regional Center, Hastings Regional Center, Grand Island Veterans'
9 Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans' Home,
10 Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment
11 Center-Kearney, and Youth Rehabilitation and Treatment
12 Center-Geneva; and

13 (u) Deputies and examiners of the Department of Banking
14 and Finance and the Department of Insurance as set forth in
15 sections 8-105 and 44-119, except for those deputies and examiners
16 who remain in the State Personnel System.

17 (2) At each agency head's discretion, up to the following
18 number of additional positions may be exempted from the State
19 Personnel System, based on the following agency size categories:

20	Number of Agency	Number of Noncovered
21	Employees	Positions
22	less than 25	0
23	25 to 100	1
24	101 to 250	2
25	251 to 500	3
26	501 to 1000	4
27	1001 to 2000	5
28	2001 to 3000	8

1	3001 to 4000	11
2	4001 to 5000	14
3	over 5000	17

4 The purpose of having such noncovered positions shall be
5 to allow agency heads the opportunity to recruit, hire, and
6 supervise critical, confidential, or policymaking personnel without
7 restrictions from selection procedures, compensation rules, career
8 protections, and grievance privileges. Persons holding the
9 noncovered positions shall serve at the pleasure of the agency head
10 and shall be paid salaries set by the agency head.

11 In no case shall a current state employee's career
12 protections or coverage by personnel rules and regulations be
13 revoked without the prior written agreement of such employee.

14 Sec. 4. Section 81-1373, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-1373. (1) For the purpose of implementing the state
17 employees' right to organize for the purpose of collective
18 bargaining, there are hereby created twelve bargaining units for
19 all state agencies except the University of Nebraska, the Nebraska
20 state colleges, and other constitutional offices. The units shall
21 consist of state employees whose job classifications are
22 occupationally and functionally related and who share a community
23 of interest. The bargaining units shall be:

24 (a) Maintenance, Trades, and Technical, which unit is
25 composed of generally recognized blue collar and technical classes,
26 including highway maintenance workers, carpenters, plumbers,
27 electricians, print shop workers, auto mechanics, engineering aides
28 and associates, and similar classes;

1 (b) Administrative Support, which unit is composed of
2 clerical and administrative nonprofessional classes, including
3 typists, secretaries, accounting clerks, computer operators, office
4 service personnel, and similar classes;

5 (c) Health and Human Care Nonprofessional, which unit is
6 composed of institutional care classes, including nursing aides,
7 psychiatric aides, therapy aides, and similar classes;

8 (d) Social Services and Counseling, which unit is
9 composed of generally professional-level workers providing services
10 and benefits to eligible persons. Classes shall include job
11 service personnel, income maintenance personnel, social workers,
12 counselors, and similar classes;

13 (e) Administrative Professional, which unit is composed
14 of professional employees with general business responsibilities,
15 including accountants, buyers, personnel specialists, data
16 processing personnel, and similar classes;

17 (f) Protective Service, which unit is composed of
18 institutional security personnel, including correctional officers,
19 building security guards, and similar classes;

20 (g) Law Enforcement, which unit is composed of employees
21 holding powers of arrest, including Nebraska State Patrol officers
22 and sergeants, ~~game wardens~~ conservation officers, fire marshal
23 personnel, and similar classes. Sergeants, investigators, and
24 patrol officers employed by the Nebraska State Patrol as authorized
25 in section 81-2004 shall be presumed to have a community of
26 interest with each other and shall be included in this bargaining
27 unit notwithstanding any other provision of law which may allow for
28 the contrary;

1 (h) Health and Human Care Professional, which unit is
2 composed of community health, nutrition, and health service
3 professional employees, including nurses, doctors, psychologists,
4 pharmacists, dietitians, licensed therapists, and similar classes;

5 (i) Examining, Inspection, and Licensing, which unit is
6 composed of employees empowered to review certain public and
7 business activities, including driver-licensing personnel, revenue
8 agents, bank and insurance examiners who remain in the State
9 Personnel System under sections 8-105 and 44-119, various public
10 health and protection inspectors, and similar classes;

11 (j) Engineering, Science, and Resources, which unit is
12 composed of specialized professional scientific occupations,
13 including civil and other engineers, architects, chemists,
14 geologists and surveyors, and similar classes;

15 (k) Teachers, which unit is composed of employees
16 required to be licensed or certified as a teacher; and

17 (l) Supervisory, which unit is composed of employees who
18 are supervisors as defined in section 48-801.

19 All employees who are excluded from bargaining units
20 pursuant to the Industrial Relations Act, all employees of the
21 personnel division of the Department of Administrative Services,
22 and all employees of the Division of Employee Relations of the
23 Department of Administrative Services shall be excluded from any
24 bargaining unit of state employees.

25 (2) Any employee organization, including one which
26 represents other state employees, may be certified or recognized as
27 provided in the Industrial Relations Act as the exclusive
28 collective-bargaining agent for a supervisory unit, except that

1 such unit shall not have full collective-bargaining rights but
2 shall be afforded only meet-and-confer rights.

3 (3) It is the intent of the Legislature that professional
4 and managerial employee classifications and office and service
5 employee classifications be grouped in broad occupational units for
6 the University of Nebraska and the Nebraska state colleges
7 established on a university-wide or college-system-wide basis,
8 including all campuses within the system. Any unit entirely
9 composed of supervisory employees of the University of Nebraska or
10 the Nebraska state colleges shall be afforded only meet-and-confer
11 rights. Except as provided in subsection (4) of this section, the
12 bargaining units for academic, faculty, and teaching employees of
13 the University of Nebraska and the Nebraska state colleges shall
14 continue as they exist on April 9, 1987, and any adjustments
15 thereto or new units therefor shall continue to be determined
16 pursuant to the Industrial Relations Act.

17 (4) Except as provided in subdivision (2)(c) of section
18 85-1,119, when the institution now known as Kearney State College
19 is transferred to the control and management of the Board of
20 Regents of the University of Nebraska, any academic, faculty, and
21 teaching employees of Kearney State College who are included in a
22 bargaining unit and represented by a certified or recognized
23 collective-bargaining agent as of June 30, 1991, shall, on and
24 after July 1, 1991, compose a separate bargaining unit of
25 University of Nebraska employees, and such agent shall be entitled
26 to certification by the commission for the new bargaining unit
27 without the necessity of a representation election. Any
28 adjustments to the unit or the representation thereof shall be

1 determined pursuant to the Industrial Relations Act.

2 (5) Other constitutional offices shall continue to
3 subscribe to the procedures for unit determination in the
4 Industrial Relations Act, except that the commission is further
5 directed to determine the bargaining units in such manner as to (a)
6 reduce the effect of overfragmentation of bargaining units on the
7 efficiency of administration and operations of the constitutional
8 office and (b) be consistent with the administrative structure of
9 the constitutional office. Any unit entirely composed of
10 supervisory employees of a constitutional office shall be afforded
11 only meet-and-confer rights.

12 Sec. 5. Original sections 8-105, 44-119, and 81-1373,
13 Reissue Revised Statutes of Nebraska, and section 81-1316, Revised
14 Statutes Supplement, 2002, are repealed.